

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

MEXICAN AMERICAN LEGISLATIVE CAUCUS, TEXAS HOUSE OF REPRESENTATIVES,	§	Civil Action
	§	
	§	
Plaintiffs	§	
	§	Case No. 21-cv-259-DCG-JES-JVB
v.	§	
STATE OF TEXAS, GREG ABBOTT, GOVERNOR OF THE STATE OF TEXAS, in his official capacity, and JOHN SCOTT, SECRETARY OF STATE OF TEXAS, in his official capacity	§	
	§	
	§	
Defendants	§	
	§	

PLAINTIFF MALC'S UNOPPOSED MOTION FOR LEAVE TO AMEND COMPLAINT AND JOIN PARTIES

TO THE HONORABLE COURT:

Plaintiff Mexican American Legislative Caucus (“MALC”) requests leave to file an Amended Complaint. The Motion is unopposed.

1.00 BACKGROUND

On November 2, 2021, Plaintiff filed its Original Complaint against Defendants State of Texas, Governor Greg Abbott, in his official capacity, and Secretary of State John Scott, in his official capacity. Defendants moved to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6) on December 9, 2021. The Court has yet to rule on the motion to dismiss.

The Court’s Scheduling Order requires that all motions for leave to amend and to join parties shall be filed on or before April 14, 2021. MALC timely files this motion for leave to amend its Original Complaint for three primary reasons: (1) the proposed Amended Complaint adds two

individual voter plaintiffs that have standing to pursue claims with respect to House Districts 45 and 80; (2) add additional identifying information regarding MALC members; and (3) clarify and provide additional facts with respect to MALC's *Larios* claim in the El Paso region.

Plaintiff have conferred with opposing counsel and they are unopposed. The parties further agree that the pending motion to dismiss should not be treated as moot and that Defendants have an opportunity to file supplements to those motions to dismiss should they feel it necessary.

A copy of a redline of the proposed Amended Complaint is attached as Exhibit A. The request to amend is made not for purposes of delay, but so that justice may be done.

2.00 AUTHORITY

Pursuant to FED. R. CIV. P. 15 this Court may permit an amendment to a pleading when the opposing party consents or the Court grants leave. Fed. R. Civ. P. 15(a)(2). Plaintiff believes an amended pleading will help clarify the issues and is appropriate given the issues raised in Defendants' pending motion to dismiss. Plaintiff also is adding two individual voters with standing to pursue claims related to House Districts 45 and 80.

Because the court "should freely give leave when justice requires," Plaintiff requests the Court grant leave to file an Amended Complaint. Fed. R. Civ. P. 15(a)(2); *see Foman v. Davis*, 371 U.S. 178, 182 (1962). "The policy of the federal rules is to permit liberal amendment to facilitate determination of claims on the merits and to prevent litigation from being a technical exercise in the fine points of pleading." *Dussouy v. Gulf Coast Inv. Corp.*, 660 F.2d 594, 598 (5th Cir. 1981). Here, Plaintiff's amendment will progress the litigation towards trial and further clarify the issues for the parties and the Court. There is no basis to deny the requested amendments and the request for leave is timely under the Court's Scheduling Order. Finally, Defendants will suffer no prejudice from the proposed amendments.

3.00 PRAYER

For the foregoing reasons, Plaintiff asks this Court to grant his Motion for Leave to Amend and permit the filing of an amended complaint.

DATED: April 14, 2021

Respectfully submitted,

SOMMERMAN, MCCAFFITY,
QUESADA & GEISLER, LLP

/s/ Sean J. McCaffity

Sean J. McCaffity
State Bar No. 24013122
smccaffity@textrial.com
Jody Rodenberg
State Bar No. 24073133
jrodenberg@textrial.com
3811 Turtle Creek Blvd., Suite 1400
Dallas, TX 75219
Telephone: 214/720-0720
Facsimile: 214/720-0184
ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify this 14th day of April, 2022 that a copy of the foregoing document was filed electronically and served via ECF notifications to all counsel of record. Therefore, this document was served on all counsel via electronic service.

/s/ Sean J. McCaffity

Sean J. McCaffity

CERTIFICATE OF CONFERENCE

On April 13, 2022 and April 14, 2022, the undersigned counsel conferred with counsel for the Defendants concerning this Motion. The motion is unopposed.

/s/ Sean J. McCaffity

Sean J. McCaffity